

1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE NORTHERN DISTRICT OF OKLAHOMA
 3

4 STATE OF OKLAHOMA, ex rel,)
 5 W.A. DREW EDMONDSON, in his)
 6 capacity as ATTORNEY GENERAL)
 7 OF THE STATE OF OKLAHOMA,)
 8 et al.)
 9 Plaintiffs,)
 10 V.) No. 05-CV-329-GKF-SAJ
 11 TYSON FOODS, INC., et al.,)
 12 Defendants.)
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12 TRANSCRIPT OF PROCEEDINGS

13 JUNE 15, 2007

14 MOTIONS HEARING

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 16
 17 BEFORE THE HONORABLE GREGORY K. FRIZZELL, Judge
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19 APPEARANCES:

20 For the Plaintiffs: Mr. Louis W. Bullock
 21 Mr. M. David Riggs
 22 Mr. Richard T. Garren
 23 Mr. Frederick C. Baker
 24 Mr. W.A. Drew Edmondson
 25 Ms. Kelly S. Burch
 Mr. Robert A. Nance
 Mr. J. Trevor Hammons
 Ms. Ingrid Moll

For the Defendants: Mr. Robert W. George
 Mr. Jay T. Jorgensen

1 (APPEARANCES CONTINUED)

2 For the Defendants: Mr. Stephen L. Jantzen
3 Mr. Michael R. Bond
4 Mr. John R. Elrod
5 Mr. A. Scott McDaniel
6 Ms. Nicole M. Longwell
7 Mr. Phillip D. Hixon
8 Ms. Theresa Noble Hill
9 Mr. Robert P. Redemann
10 Mr. Robert E. Sanders
11 Mr. Bruce Jones
12 Mr. Paul Thompson, Jr.

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14 PROCEEDINGS

15 June 15, 2007

16 THE COURT: Be seated, please.

17 THE CLERK: Call case number 05-CV-329-GKF, Attorney
18 General for State of Oklahoma vs. Tyson Foods. Continued
19 motion hearing.

20 THE COURT: What I would like to do on number 66 is
21 also wrap up the aspect that we had discussed at the earlier
22 hearing, specifically the argument that Tyson withdrew as to
23 Clean Water Act preemption. And have we discussed on both
24 sides, has everybody been given an opportunity to reply to
25 that?

MR. MCDANIEL: I would like to have an opportunity to
respond to Mr. Baker's comments of yesterday, Your Honor.

THE COURT: All right, go ahead.

MR. MCDANIEL: Thank you. Good morning Your Honor.

THE COURT: Mr. McDaniel, good morning.

1 here. They ask in the alternative that Counts 2, 4, 6 and 10
2 be dismissed or in the alternative, that the Court should limit
3 plaintiffs' claims in Counts 2, 4, 6 and 10 to those discrete
4 properties and natural resources within the portion of the IRW
5 located in Oklahoma. I'm going to rule on this in part and
6 reserve it in part to get a little more up to speed on *parens*
7 *patriae*. First of all, I'm not going to grant the motion to
8 dismiss in toto as requested by the defendants. So the motion
9 document 1076 is denied insofar as the Court is not dismissing
10 in its entirety 2, 4, 6 and 10.

11 I am going to require the plaintiff to replead Count 6
12 to specifically set forth those properties which they would
13 have standing to assert a trespass claim upon. So in that
14 respect, I guess technically I am dismissing 6 and requiring
15 the State to replead because clearly the State doesn't have
16 standing to assert trespass over all the lands, biota, et
17 cetera, et cetera, in the IRW or even within the IRW within the
18 State of Oklahoma.

19 So, Mr. Overton, if you'll change that to indicate
20 that the Court is dismissing 6 and requiring the State to
21 replead that to assert those properties over which it has
22 standing to assert a trespass claim on. And how much time do
23 you need to do that?

24 MR. BULLOCK: Could we have 30 days to do that, Judge?

25 THE COURT: Any objection?